87R354 GCB-D

By:  Wu H.B. No. 498

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and penalties for possession of one ounce or less of marihuana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d)  Subsection (c) applies only to a person charged with committing an offense under:

(1)  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~] or (2) of that section;

(1-a)  Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2)  Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3)  Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4)  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5)  Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6)  Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7)  Section 521.457, Transportation Code.

SECTION 2.  Section 411.0728(a), Government Code, is amended to read as follows:

(a)  This section applies only to a person:

(1)  who is convicted of or placed on deferred adjudication community supervision for an offense under:

(A)  Section 481.120, Health and Safety Code, if the offense is punishable under Subsection (b)(1);

(B)  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1-a) [~~(b)(1)~~];

(C)  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(1) or (2); or

(D)  Section 43.02, Penal Code; and

(2)  who, if requested by the applicable law enforcement agency or prosecuting attorney to provide assistance in the investigation or prosecution of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, or a federal offense containing elements that are substantially similar to the elements of an offense under any of those sections:

(A)  provided assistance in the investigation or prosecution of the offense; or

(B)  did not provide assistance in the investigation or prosecution of the offense due to the person's age or a physical or mental disability resulting from being a victim of an offense described by this subdivision.

SECTION 3.  Section 481.121(b), Health and Safety Code, is amended to read as follows:

(b)  An offense under Subsection (a) is:

(1)  a Class C misdemeanor if the amount of marihuana possessed is one ounce or less;

(1-a)  a Class B misdemeanor if the amount of marihuana possessed is two ounces or less but more than one ounce;

(2)  a Class A misdemeanor if the amount of marihuana possessed is four ounces or less but more than two ounces;

(3)  a state jail felony if the amount of marihuana possessed is five pounds or less but more than four ounces;

(4)  a felony of the third degree if the amount of marihuana possessed is 50 pounds or less but more than 5 pounds;

(5)  a felony of the second degree if the amount of marihuana possessed is 2,000 pounds or less but more than 50 pounds; and

(6)  punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 5 years, and a fine not to exceed $50,000, if the amount of marihuana possessed is more than 2,000 pounds.

SECTION 4.  Section 481.134, Health and Safety Code, is amended by amending Subsections (f) and (g) and adding Subsection (f-1) to read as follows:

(f)  An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1-a) [~~481.121(b)(1)~~] is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(f-1)  An offense otherwise punishable under Section 481.121(b)(1) is a Class B misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(g)  Subsections (f) and (f-1) do [~~Subsection (f) does~~] not apply to an offense if:

(1)  the offense was committed inside a private residence; and

(2)  no minor was present in the private residence at the time the offense was committed.

SECTION 5.  Section 12.43(c), Penal Code, is amended to read as follows:

(c)  If it is shown on the trial of an offense punishable as a Class C misdemeanor under Section 42.01 or 49.02, or under Section 481.121(b)(1), Health and Safety Code, that the defendant has previously been convicted of any [~~been before convicted under either~~] of those offenses [~~sections~~] three times or three times for any combination of those offenses and each prior offense was committed in the 24 months preceding the date of commission of the instant offense, the defendant shall be punished by:

(1)  a fine not to exceed $2,000;

(2)  confinement in jail for a term not to exceed 180 days; or

(3)  both such fine and confinement.

SECTION 6.  The amendments of Sections 481.121 and 481.134, Health and Safety Code, by this Act apply to an offense committed under Section 481.121 or an offense committed under Section 481.121 and punishable under Section 481.134, Health and Safety Code, before, on, or after September 1, 2021, except that a final conviction for an offense that exists on September 1, 2021, is unaffected by this Act.

SECTION 7.  This Act takes effect September 1, 2021.